THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 10th August, 2006

W.P.No.25060 of 2004

Between:

B. Samba Murthy … Petitioner

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The District Collector (CS), Srikakulam
Srikakulam District, Kurnool and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.25060 of 2004

ORAL ORDER:

This Writ Petition is filed seeking to quash the Order of the 1st respondent dated 25-9-2004, wherein the Orders of the 2nd and 3rd respondents dated 16-10-2003 and 4-6-2003 respectively were confirmed.

It is the case of the petitioner that he was appointed as fair price shop dealer of Kapasukuddi village, Kaviti Mandal of Srikakulam district and had been distributing the essential commodities to the satisfaction of one and all. While so, a complaint has been lodged stating that on 24-2-2003 women belonging to self-help group stopped a van containing 85.90 quintals of rice suspecting to be the rice meant for Food For Work Programme. The authority concerned conducted inspection of the shop and came to the conclusion that there was no variation in the stocks on 24-2-2003. The entire stock for food for work programme was distributed after receiving coupons from the Sarpanch. However, after enquiry, the Mandal Revenue Officer reported that the Sarpanch and the petitioner colluded and manipulated the rice distribution register and fake signatures were taken against those coupons. On the basis of the report of the Mandal Revenue Officer, a show cause notice dated 20-3-2003 was issued to him. He submitted explanation on 3-5-2003. Thereafter, the 3rd respondent-Revenue Divisional Officer passed orders cancelling his authorization by Proceedings dated 4-6-2003. The reasons furnished for such cancellation are that the proceedings under Section 6-A of the

Essential Commodities Act,1955 (for short 'the Act') initiated against him by the 2nd respondent-Joint Collector confiscating 100% of the seized stocks in his File No.SR 3/2003, dated 31-1-2003 attained finality and that was based on the enquiry report submitted by the Mandal Revenue Officer, Kaviti stating that the fair price shop dealer has got thumb impressions by one person on all the names and in some cases there are no signatures. Further, the labour whose names recorded in the distribution register have categorically stated that none of them have taken the rice from the fair price shop dealer under food for work programme; as such, there is substantial evidence that the Sarpanch has issued coupons on benami names and withdrawn the rice in collusion with the fair price shop dealer and diverted the stocks to black market. Therefore, his authorization was cancelled. The appeal and the revision filed against the said Order of the Revenue Divisional Officer were ended in dismissal. Hence, this Writ Petition.

Heard both sides.

It is interesting to notice that those women activists of self-help group were not examined in the enquiry nor the statement of the Sarpanch was recorded nor the labour whose statements said to have been recorded by the Mandal Revenue Officer were furnished to the petitioner. For the purpose of ascertaining that the thumb impressions do not belong to the persons, who are entitled for receiving the rice under food for work programme, none was examined. The whole case is dealt with only on the basis of the proceedings under Section 6-A of the Act, which ended in confiscation of 100% of the seized stock. In fact, the petitioner has not claimed the said stock. He has stated that those rice do not belong to the fair price shop nor the rice was meant for food for work programme and there was no collusion between him and the Sarpanch. In the circumstances, I am of the considered

opinion that what exactly is the Mandal Revenue Officer's report and who was examined before the Mandal Revenue Officer were not considered by the primary authority i.e. Revenue Divisional Officer, apart from the fact that the Sarpanch and the self-help group women were not examined. Therefore, the whole enquiry conducted is vitiated by law and procedure; as such, the impugned Orders dated 4-6-2003 passed by the 3rd respondent, which was confirmed by the 2nd respondent on 16-10-2003 and further by the 1st respondent on 25/27-9-2004 are liable to be set aside and are accordingly, set aside.

The Writ Petition is, therefore, allowed. No order as to costs.

10-8-2006

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